

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

James Wilbert Walker, Jr.,)
)
Defendant/Petitioner,)
)
vs.,) CASE NO. CV05-BE-0150-S
)
Billy Mitchum, warden, and)
The Attorney General of the)
State of Alabama)
)
Respondent.)

**REPLY TO RESPONDENT’S RESPONSE TO MOTION TO SET ASIDE THE 28 U.S.C.
§ 2244(d) PERIOD OF LIMITATION**

Comes now the Defendant/Petitioner in the above styled cause by and through the undersigned Attorney and in reply to the Respondent's response as to why Walker's motion to set aside the period of limitation of §2244(d) should be granted, makes the following response.

1. The only evidence at all presented at trial to determine the guilt of Petitioner was the testimony of the accuser, Jennifer Walker, who recanted and continues to hold her recantation as valid as to the allegations charged against her father. The accuser admits to fabricating the entire incident between her and the Petitioner in order to be able to leave her home to spend time with her then boyfriend, Mark Anthony Duke, who is currently on death row. The Petitioner did not allow the accuser to see Mr. Duke and fabricated a story in order to get her way.
2. It is still a fact that the Prosecutor threatened the accuser with the possibility of

perjury if she recanted her story in an effort to put fear in the accuser. The accuser was threatened with jail time herself if she told the actual truth so she maintained the story out of fear for her own freedom.

3. There is an innocent man, with no evidence against him and a continual denial of any sexual abuse by the accuser, that will be a registered sex offender for the rest of his life. The only reason the Petitioner is still imprisoned is because of the stigma of the crime for which he was wrongfully convicted.

Wherefore, the Petitioner prays that this Court will take under consideration the actual innocence of the Petitioner and the fundamental miscarriage of justice that the Chilton County Circuit Court and all other Courts who will not hear cause that has been demonstrated towards the Petitioner, and set aside the period of limitations in order to correct the wrong. No reasonable juror would have found this Petitioner to be guilty beyond a reasonable doubt.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of April, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to the following:

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Respectfully Submitted,

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